

REMARKS

By this Amendment, claims 26, 27, 29-31, 33, and 37 have been amended. No claims have been cancelled or newly added. Support for the instant amendments is provided throughout the as-filed application. Thus, no new matter has been added. Therefore, claims 1, 2, 4-6, 8, 12, 14, 15, 17-19, 21, 25-27, 29-31, 33, 37, 38, and 40-44 are pending. In view of the foregoing amendments and following comments, allowance of all the claims pending in the application is respectfully requested.

INTERVIEW SUMMARY RE: FINALITY OF THE OFFICE ACTION

Following the telephonic communications of the Applicants' representatives with the Primary Examiner, Mr. Dean Tan Nguyen and the Supervisory Patent Examiner, Ms. Janice Mooneyham, the finality of the Office Action was withdrawn as it was deemed improper. Therefore, the present Response and Amendment should be entered without a Request for Continued Examination. If there are any questions regarding the finality issue, the Examiner is invited to telephone the undersigned at the number provided below.

FINDINGS OF FACT AND PRINCIPLES OF LAWS

The Examiner makes numerous contentions and characterizations in the "Findings of Fact" and "Principles of Laws" sections of the Office Action. Applicants disagree with many of these assertions, however will only address those relevant to the rejection of claims specifically addressed in this response. Under no circumstances shall any of the Examiner's findings be construed as agreed to unless Applicants explicitly state their acquiescence. Furthermore, none of the issues presented in this section constitute formal objections or rejections. Therefore, applicants are under no obligation to address any of the issues raised.

For example, the Examiner alleges that independent claim 14 is claimed functionally, in terms of intended use, instead of structurally. Applicants submit that in the response filed March 29, 2010, claim 14 was amended to clarify the invention. Specifically, claim 14 was amended to recite a system "configured to identify" instead of "for identifying." As such, the amended claim provides specific structure or system configurations that cannot be construed as intended use.

REJECTIONS UNDER 35 U.S.C. § 103

Claims 1, 2, 4-6, 8, 12, 14, 15, 17-19, 21, 25-27, 29-31, 33, 37, 38, and 40-42 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Stevens in view of Kumbhyr.

Applicants traverse these rejections for at least the reason that the Examiner has failed to make a *prima facie* case of obviousness because the references relied upon fail to teach, suggest, or otherwise render obvious all of the features of the claimed invention. Stevens or Kumbhyr alone or in combination fail to teach, suggest or otherwise render obvious all of the features of independent claims 1, 14 and 26.

For example, claim 1 recites “*monitoring computing activities of a second user by a software monitoring module,*” and “*determining if the second user appears to be interested in the received topic based on the monitored activities of the second user and based on the associated information.*” Claims 14 and 26 recite similar language. The Examiner concedes that Stevens fails to disclose “monitoring computing activities of a second user by a software monitoring module.” Nonetheless, the Examiner alleges that Stevens, e.g., at paragraph [0063], discloses determining if the second user appears to be interested in the received topic based on the monitored activities of the second user and based on the associated information, as recited in claim 1. Applicants disagrees with the Examiner’s assessment for at least the reason that Stevens does not disclose, teach or suggest monitoring computing activities of a second user, or determining if the second user appears to be interested in the received topic based on the second user’s monitored activities.

For example, Stevens appears to describe creating and storing user profiles, and comparing profile of a requesting user to with profiles of the other users to identify one or more matching users. Upon locating a match, information and predetermined contact information for the matching user(s) is transmitted to the requesting user. The requesting user’s contact information may also be transmitted to the matching users if the requesting user so desires. See, Stevens, paras. [0032]-[0035], [0062] and [0063]. First, as acknowledged by the Office Action, Stevens fails to disclose, teach or suggest monitoring computing activities of a second user (or a matching user) by a software monitoring module, as recited in claim 1. Further, Stevens fails to disclose, teach or suggest determining if the second user (or the matching user) appears to be interested in the received topic, let alone

making such determination based on the monitored activities of the second (or matching) user and based on the associated information. Rather, Stevens appears to describe transmitting the requesting user's (or the first user's) information to the matching user (or the second user) if the requesting (or first) user so desires.

The Examiner's relies on Kumbhyr to cure the deficiencies of Stevens. However, even assuming *arguendo* that Stevens and Kumbhyr are properly combinable (which Applicants do not concede), Applicants submit that Kumbhyr alone or in combination fail to teach, suggest or otherwise render obvious all of the features of independent claims 1, 14 and 26. For example, like Stevens, Kumbhyr fails to disclose, teach or suggest "determining if the second user appears to be interested in the received topic based on the monitored activities of the second user and based on the associated information," as recited in claim 1. Claims 14 and 26 recite similar language.

Therefore, for at least the reasons given above, the Examiner has failed to show that the references relied upon teach, suggest, or otherwise render obvious all of the features of claims 1, 14 and 26. Therefore, the rejection thereto is improper and must be withdrawn. Claims 2, 4-6, 8, 12, 15, 17-19, 21, 25, 27, 29-31, 33, 37, 38, and 40-42 depend from and add features to one of claims 1, 14 and 26. Therefore, for at least the reasons set forth above, the rejections thereto are likewise improper and must be withdrawn.

Claims 43 and 44 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Stevens in view of Kumbhyr and further in view of U.S. Patent Application Publication No. 2004/0023033 to Campbell et al. ("Campbell").

Applicants traverse these rejections for at least the reason that the Examiner has failed to make a *prima facie* case of obviousness because the references relied upon fail to teach, suggest, or otherwise render obvious all of the features of the claimed invention. Claims 43 and 44 each depend from and add features to independent claim 1. As discussed above, Stevens and Kumbhyr, alone or in combination, fail to disclose all of the features of claim 1. Campbell fails to cure the deficiencies of Stevens and Kumbhyr. For at least this reason, the Examiner has failed to show that the references relied upon teach, suggest, or otherwise render obvious all of the features claims 43 and 44. As such, the rejections thereto are improper and must be withdrawn.

Claims 1, 2, 4-6, 8, 12, 14, 15, 17-19, 21, 25-27, 29-31, 33, 37, 38, and 40-42 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Payton in view of Stevens.

Applicants traverse these rejections for at least the reason that the Examiner has failed to make a *prima facie* case of obviousness because the references relied upon fail to teach, suggest, or otherwise render obvious all of the features of the claimed invention. Payton or Stevens alone or in combination fail to teach, suggest or otherwise render obvious all of the features of independent claims 1, 14 and 26.

For example, claim 1 recites “*monitoring computing activities of a second user by a software monitoring module,*” and “*determining if the second user appears to be interested in the received topic based on the monitored activities of the second user and based on the associated information.*” Claims 14 and 26 recite similar language. The Examiner concedes that Payton fails to disclose or teach determining if the second user appears to be interested in the received topic based on the monitored activities of the second user and based on the associated information, as recited in claim 1. However, the Examiner relies on Stevens to cure the deficiencies of Payton. Applicants disagree with the Examiner’s assessment for at least the reason that Payton and Stevens, alone or in combination, fail to disclose the aforementioned features of the claimed invention.

For example, Payton appears to describe tracking and correlating user activities with respect to information resources on an electronic network to assist users in finding others with common interests. See, Payton, Abstract and col. 3, ll. 28-67. However, as acknowledged by the Office Action, Payton fails to disclose, teach or suggest “determining if the second user appears to be interested in the received topic based on the monitored activities of the second user and based on the associated information,” as recited in claim 1.

The Examiner’s reliance on Stevens fails to cure the deficiencies of Payton. Even assuming *arguendo* that Payton and Stevens are properly combinable (which Applicants do not concede), Applicants submit that Stevens alone or in combination fail to teach, suggest or otherwise render obvious all of the features of independent claims 1, 14 and 26. For example, as discussed above, Stevens fails to disclose, teach or suggest monitoring computing activities of a second user (or a matching user) by a software monitoring module.

Further, Stevens fails to disclose, teach or suggest determining if the second user (or the matching user) appears to be interested in the received topic, let alone making such determination based on the monitored activities of the second (or matching) user and based on the associated information. Rather, Stevens appears to describe transmitting the requesting user's (or the first user's) information to the matching user (or the second user) if the requesting (or first) user so desires.

Therefore, for at least the reasons given above, the Examiner has failed to show that the references relied upon teach, suggest, or otherwise render obvious all of the features of claims 1, 14 and 26. Therefore, the rejection thereto is improper and must be withdrawn. Claims 2, 4-6, 8, 12, 15, 17-19, 21, 25, 27, 29-31, 33, 37, 38, and 40-42 depend from and add features to one of claims 1, 14 and 26. Therefore, for at least the reasons set forth above, the rejections thereto are likewise improper and must be withdrawn.

Claims 43 and 44 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Payton in view of Stevens and further in view of Campbell.

Applicants traverse these rejections for at least the reason that the Examiner has failed to make a *prima facie* case of obviousness because the references relied upon fail to teach, suggest, or otherwise render obvious all of the features of the claimed invention. Claims 43 and 44 each depend from and add features to independent claim 1. As discussed above, Payton and Stevens, alone or in combination, fail to disclose all of the features of claim 1. Campbell fails to cure the deficiencies of Payton and Stevens. For at least this reason, the Examiner has failed to show that the references relied upon teach, suggest, or otherwise render obvious all of the features of claims 43 and 44. As such, the rejections thereto are improper and must be withdrawn.

CONCLUSION

Having addressed each of the foregoing rejections, it is respectfully submitted that a full and complete response has been made to the outstanding Office Action and, as such, the application is in condition for allowance. Notice to that effect is respectfully requested.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

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Respectfully submitted,

/Manu Bansal/

By: Manu Bansal
Registration No. L0610

Customer No.: 52796

Pillsbury Winthrop Shaw Pittman LLP
P.O. Box 10500
McLean, Virginia 22102

Direct: (703) 770-7802
Main: (703) 770-7900
Fax: (703) 770-7901